

REMARKS

The Office Action of October 22, 2010, was received and carefully reviewed. Claims 7-37 were pending in this application prior to the instant amendment. By this amendment, no claims have been amended, canceled or newly added. Thus, claims 7-37 remain currently pending for consideration.

Specification

Applicants herein amend the previously presented first paragraph on page 1 of the specification as shown above to clarify that this application is a divisional reissue application of its parent reissue application, Reissue Application No. 09/838,216, and is not intended to be a divisional of its parent reissue application. Further, Applicants herein incorporate into the specification the patent number of the parent reissue application, U.S. Patent RE38,266, for completeness. It is believed that the cross-reference previously requested by Certificate of Correction in U.S. Patent RE38,266 on October 26, 2009 is not affected by these amendments, and as such, no additional corrections are requested to that patent herewith.

Claim Markings

Claims 7-37 stand objected to as failing to comply with 37 CFR 1.173(b), which requires the material to be added by reissue to be underlined. Accordingly, Applicants herein underline each of claims 7-37 in the manner prescribed by the Examiner, as shown above. Thus, Applicants respectfully request withdrawal of this objection.

Oath/Declaration

Claims 7-37 stand rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251, because reissue oath/declaration allegedly fails to identify at least one error which is relied upon to support the reissue application. Specifically, the Examiner asserts that the declaration filed on October 26, 2009 asserts an error that is directed to subject matter which is not in the claims of the original patent (US 6,071,766); therefore, the error allegedly does not support this reissue. Furthermore, the Examiner argues that the error corrected in the instant divisional reissue application must be an error different from the error corrected by the parent reissue application, and requests a new declaration with a new error being corrected by the present reissue.

With respect to this rejection, Applicants herewith submit a new declaration that conforms with the requirements of 37 CFR § 1.175. Specifically, Applicants have cited the following new error in the original patent that is corrected by the present reissue:

Applicants inadvertently included the feature of “forming the metal element diffusion film comprising a semiconductor in contact with the silicon nitride film” (*emphasis added*) in the claims of the original patent. This feature is unnecessary for patentability and narrows the claims below a scope which the inventors had a right to claim in the patent. This feature has been changed to recite “forming a metal element diffusion film comprising a semiconductor over the crystallized semiconductor film” (*emphasis added*) in the claims of this reissue application.

Thus, Applicants submit that the declaration is not defective and respectfully request withdrawal of this rejection.

In view of the foregoing, Applicants respectfully request allowance of the instant application. If a conference would be helpful in expediting prosecution of the instant application, the Examiner is invited to telephone the undersigned to arrange such a conference.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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